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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,173	03/24/2004	Akiyoshi Hashimoto	G&P-105	4125
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314				
			EXAMINER MARTINEZ, DAVID E	
			ART UNIT 2182	PAPER NUMBER

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/807,173

Applicant(s)

HASHIMOTO, AKIYOSHI

Examiner

David E. Martinez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-44 is/are pending in the application.
- 4a) Of the above claim(s) 27-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-25 and 41-43 is/are rejected.
- 7) ☐ Claim(s) 26 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/12/05, 8/4/05, 4/15/06, 2/24/05, 6/15/04 DM
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Species 1, directed to claims 14-26 and 41-44 in the reply filed on 9/13/05 is acknowledged.

### ***Information Disclosure Statement***

The information disclosure statement filed 8/12/05 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. The German Patent document No. 10014448 has been placed in the application file, but the information referred to therein has not been considered since there was no translation provided for the document, or of the abstract.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regards to claim 19 lines 4-5, the term "wherein said storage system partitions said second resource logically based on said sent information" renders the claim indefinite. It is unclear what is meant by 'said sent information' since it could be referring to either of the second information or the third information which were both previously sent to the storage system.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-16 and 22, are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Application Publication No. US 2002/0052914 A1 to Zalewski et al. (hereinafter Zalewski).

1. With regards to claim 14, Zalewski teaches a computer system comprising:
  - a computer [fig 9 element 900] having a first resource [fig 9 partition elements 901, 902, 904, paragraph 253],
  - a storage system having a second resource [fig 9 element 924 paragraph 253];
  - a first information for managing said first resource [paragraphs 62, 66, 72, 151, 254, 255],
  - a second information for managing said second resource [paragraphs 153,154, 157, 254, 255],
  - a third information for managing a relation between a virtual computer realized on said computer and a virtual storage system realized on said storage system [paragraphs 157, 159, 254, 255];
  - wherein said computer has a first function to partition said first resource logically and to make each partition of said first resource run as an independent said virtual computer [fig 9 partition elements 901, 902, 904, paragraphs 254-255], and

wherein said storage system has a second function to partition said second resource logically and to make each partition of said second resource run as an independent said virtual storage system [fig 9 elements 926, 928, 930, paragraphs 254-256].

2. With regards to claim 15, Zalewski teaches a computer system according to claim 14, wherein said computer realizes said first function by software [paragraphs 51, 52, 59, 254, 255].

3. With regards to claim 16, Zalewski teaches a computer system according to claim 14, wherein said storage system realizes said second function by software [paragraphs 51, 52, 59, 254, 255].

4. With regards to claim 22, Zalewski teaches a computer system according to claim 14, wherein said first resource is any of a CPU, a memory, and an I/O adaptor [fig 9 elements 906, 908, 910], and said second resource is any of a CPU, a memory, an I/O adaptor and a disk device [fig 9 elements 926, 928, 930].

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-21, 23, 24, 41 and 42, are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication No. US 2002/0052914 A1 to Zalewski et al.

5. With regards to claims 17-21, Zalewski teaches the a first, second and third information as disclosed above, but he is silent as to the particular entities where the first, second and third information are stored. However the placement of the first, second and third information is arbitrary as to the system performing its configuration and assignment functions. Zalewski

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teaches that having a single instance of information has the disadvantage that it can create a single point of failure [paragraph 61].

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Zalewski to have the information elements stored and distributed in different places (such as the computer partitions or the storage partitions or both), which allows the different entities to be configured and assigned, to avoid a single point of failure in the system.

With regards to claims 23 and 24, Zalewski teaches a computer system according to claim 14, wherein

said computer system further comprises:

a management terminal [fig 2 element 228] connected to said computer and said storage system [fig 2 element 200] [paragraph 45],

Zalewski teaches the above limitations, but is silent as to the management terminal having said first, second and third information and about sending the information to the computer and storage systems to partition their resources according to said first and second information respectively. However, Zalewski does teach that having a single instance of information has the disadvantage that it can create a single point of failure [paragraph 61].

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Zalewski to have the first, second and third information elements stored in the management terminal be also transmitted to the computer and storage systems, which would allow the management terminal to communicate to the computer and storage systems to configure and assign their partitions based on the information elements, to avoid a single point of failure in the system.

6. With regards to claim 41, it is of the same scope as claims 23 and 24 above and thus rejected under the same rationale.

7. With regards to claim 42, Zalewski teaches a management terminal according to claim 41, wherein said first resource is any of a CPU, a memory, and an I/O adaptor [fig 9 elements 906, 908, 910], and said second resource is any of a CPU, a memory, an I/O adaptor and a disk device [fig 9 elements 926, 928, 930].

Claims 25 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication No. US 2002/0052914 A1 to Zalewski et al. in view of US Patent Application Publication No. US 2004/0003063 A1 to Ashok et al. (hereinafter Ashok).

8. With regards to claim 25 and 43, Zalewski is silent as to a computer system according to claim 24, wherein said management terminal displays said first and second resource, and a third resource allocated to said virtual computer and a fourth resource allocated to said virtual storage system related to said virtual computer, and makes a screen appear to prompt a user to set said third resource and said fourth resource in said first and second resource. However, Ashok teaches a management terminal (hardware management console) displaying a first, second, third and fourth resource allocated to a virtual computer and a fourth resource allocated to a virtual storage system [allocation of adapters, processors and memory to partitions] related to a virtual computer, and makes a screen appear [figs 8-10] to prompt a user to set a third resource and a fourth resource in a first and a resource for the benefit of allowing an administrator have full management control over system configuration to perform changes when changes are needed such as to reallocate resources to partitions when they need it [figs 7, 8, 9 and 10, paragraph 27-48].

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Zalewski and Ashok to have the management terminal display said

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first and second resource, and a third resource allocated to said virtual computer and a fourth resource allocated to said virtual storage system related to said virtual computer, and makes a screen appear to prompt a user to set said third resource and said fourth resource in said first and second resource for the benefit of allowing an administrator have full management control over system configuration to perform changes when they are needed such as to reallocate resources to partitions when they need it.

***Allowable Subject Matter***

Claims 26 and 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Martinez whose telephone number is (571) 272-4152. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on (571) 272-4083. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
KIM HUYNH  
PRIMARY EXAMINER

9/28/05